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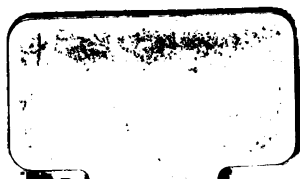
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PENAL DISCIPLINE.

THREE LETTERS

SUGGESTED BY THE INTEREST TAKEN IN THE RECENT

INQUIRY IN BIRMINGHAM,

AND PUBLISHED IN "THE DAILY NEWS,"

23RD, 24TH, AND 25TH SEPTEMBER.

Video Meliora.

BY CAPTAIN MACONOCHIE, R.N., K.H.

LONDON:

THOMAS HARRISON, 59, Pall Mall.

1853.



LETTERS ON PENAL DISCIPLINE.

LETTER I.

To the Editor of the Daily News.

SIR,—Recent events having given a peculiar interest at present to the subject of prison discipline, and my name having been somewhat prominently brought forward in relation to it by the late inquiry at Birmingham, I wish much to avail myself of the opportunity to bring again before the public a brief, yet in some measure comprehensive sketch of the views which I have long entertained on the subject of criminal management. And if you will do me the great favour to admit this into your columns, you will much oblige me.

I tender it with the more confidence, because my opportunities of studying the subject to advantage have been very great. I served eight years in the penal colonies, during four of which I commanded on Norfolk Island, their most penal settlement; and I was, two years since, governor of the Borough Prison of Birmingham, now so unhappily notorious. During the whole time thus spent, I took an especial interest in studying minutely the effect on society and on prisoners, of different forms and degrees of punishment; and the latter with so much apparent success, that a prisoner once said to me in Sydney, "One would think, sir, that you had been yourself a prisoner, you know so perfectly

all that we think and say among ourselves." My statements, therefore, on this head, should not be taken as mere imaginings, for they are, in truth, the results of long study and observation.

The fundamental principles for which I contend in the matter are these. It is more for the interest of society, as tending much more effectually and directly to check the spread of crime, to endeavour earnestly and judiciously to reform criminals while in prison, and discharge them desirous of doing well in time to come, than vindictively, retributively, or as it is called exemplarily, to punish them there. It is not necessary, at the same time, while acting on this principle, to give up the object (highly useful in its place) of deterring from crime by setting an example of suffering in our prisons : for, on the contrary, it is held that a comprehensive and manly reform, not evaporating in professions, but exhibited in subsequent actions, can only be attained by subjecting each individual culprit to a course of severe suffering, from which only his own exertions can extricate him ; but in every case this suffering should be studiously subordinated to the object of individually reforming—it must never be inflicted capriciously, or for the mere sake of example. And, lastly, it is peculiarly important that these principles should be introduced, and energetically acted on, in our county and borough—or, as they may thus be called, our elementary—prisons ; through which all criminals must pass when entering on their career of crime—their infancy, as it were, in it—and in which, accordingly, it is important that the most earnest efforts should be systematically made to turn them aside from it. For in the repression of crime much, apart from the mere rescue of individuals, will always be found to depend on the nature of the influence exercised by discharged prisoners on the society again receiving them. If turned from crime, and desirous of avoiding it in time to come, they necessarily become each, as it were, apostles of virtue in the community. Not to lose caste among their fellows on count of their altered conduct, they seek to justify this

by such arguments and representations as occur to them, many of them those which were addressed to themselves while in prison, and had most influence over them there. The good seed planted in them becomes thus widely cast on the waters, and even where individuals fail in their own persons of exemplifying its fruit, it is not altogether lost; it becomes diffused over the whole classes usually supplying criminals, and beneficially influences their thoughts and manners. While, on the contrary, the influence of prisoners discharged unreclaimed, impenitent, and hardened, is equally extensive and more than proportionally pernicious; it is a match set to gunpowder.

This, then, is the foundation of the system that I advocate. It throws extraordinary interest on the reform of prisoners; but its practical utility will of course depend on the degree in which we may hope to succeed in extensively effecting this. From long experience, I am confident that by suitable measures our success may be in this even very great; but to effect it, we must altogether reverse the arrangements now enforced in our prisons, and sanctioned by various acts of parliament. These having been organized without reference to reform, and looking only to coercion and example, are almost as if specially meant to be opposed to improvement in moral character—a comprehensive charge, but its justice will, I hope, appear incontrovertible, as I proceed to state the changes that I would suggest in them.

1. The military type now universally followed in our prisons should be abolished, and a clerical or missionary one substituted. The objects of military and prison discipline are directly opposed, and they cannot therefore, be both advantageously pursued by the same means. The one is meant to train men to act together; the other should be to prepare them safely and advantageously to separate. The one is, further, the type of force, which never created virtue yet, and against which a brave spirit even instinctively rebels; the other should image persuasion and exhortation, the approved methods in every case of obtaining an end sought. A necessary

object in the one is to subdue individual character, and reduce all to parts of a compact machine—while that of the other should be specially to strengthen individual character, and, instilling right principles into it, encourage and enable it to act on these independently. Of minor incidents in our existing gaol practice accordingly, none appears to me much more pernicious than the endeavour to ape military demeanour in it; and in reformatory prisons it should be abolished.

2. In like manner, the tone and spirit in which criminals are now received and treated in prison should be greatly modified. This is at present supercilious, and in many cases even contemptuous and habitually denunciatory—and it should instead be rather that in which patients are received into an hospital. The hatefulness of the crime that has been committed, or the contempt excited by it, should be indeed freely expressed; on this head there should be no compromise; but the criminal should be studiously regarded apart from it, as an object of compassion, now sadly fallen indeed, but yet recoverable, and sent to be recovered. A tone of hopefulness for his case should thus be maintained, and of confidence that, when put in the right way, he will be manly enough to abide in it. This idea of manliness, as attached to virtue, and of weakness and pusillanimity as exhibited in yielding to vice, should be especially insisted on. I have seen the greatest benefit derived from it in dealing with rough and fallen natures. It is an idea that comes home to many bosoms scarcely otherwise to be permanently impressed, and to whom, on the contrary, any approach to whining is distasteful and an object of scoffing.

3. But to use it to the best advantage the manly virtues ought to be otherwise sedulously cultivated, and allowed a scope of action in our prisons. This is at present almost systematically avoided in them. Every regulation is sought to be enforced by denunciations, or, in other words, appeals to caution or cowardice—not one by encouragement or appeals to hope; and to this,

doubtless, the number of suicides occurring in prisons is mainly attributable. When the spirits are otherwise weak through incurred misfortune, separation from friends, and other incidents inseparable from confinement, whether under sentence or for trial, further denunciations of worse, in the very probable event in a strict prison of violating some frivolous conventional regulation, becomes more than sufficient to upset the balance of otherwise probably a weak mind, which the least glimpse of hope, and much more, a certain power of bettering the condition by reasonable exertion, would abundantly sustain.

4. Criminals should accordingly be sent to prison under the provisions of the Mark System, the only one that has yet been proposed, the sole direct object of which is the improvement of each individual criminal. Though its original projector, I do not pretend that its apparatus for this purpose may not be simplified or improved. I do not think that this will be found easy; but as yet no other system has ever even aimed at the objects which it contemplates—all have sought, only more or less successfully, to coerce and reduce to a state of implicit obedience, alleviated by immediate comfortable maintenance, and to be emerged from without effort or other merit on the criminal's own part, solely through flux of time—than which a more debilitating and unfavourable position for moral improvement could scarcely be devised. A man under a time sentence, and comfortably maintained in this without effort or care, seeks only to wile away his time; and even if his thoughts should, by a rare accident among the criminal class, be of an improving character, having no sphere in which to act on them, he merely gets into habits of reverie, of good intentions (with which hell is said to be paved), and of conceptions of future better fortune, which when not realised, rather furnish him with excuses for backsliding than prepare him to resist the temptations to it that may be subsequently presented to him: while if his imaginings at this period, as is much more commonly the case in

sensual and animal natures, are of a prurient or otherwise dissolute or criminal character, they confirm every previous weakness or evil thought and purpose. The Mark System provides against all this, and apparently in the simplest way.

5. It proposes that criminals, instead of being sentenced to prison for a fixed time, should be sentenced to earn in a penal condition a given number of Marks (or other denomination of prison currency) according to their offence, over and above all those that they may expend for maintenance in prison, or forfeit there through misconduct. To give full scope to the plan they should have no other allowance *of right* than bread and water, with a bare floor to lie on; but work being provided for them they should be enabled to earn marks at reasonable rates by performing it, and of these marks be allowed to expend day by day what they please for improved fare and other comforts. If they choose to live well they must purchase the indulgence either by increased exertion or prolonged detention; and in like manner, if they commit prison offences, and so become subject to fines (regulated by carefully prepared tables), they must equally make them up by increased industry, economy, or extended imprisonment; their accounts to be made up every evening while the facts are recent, and neither favour nor prejudice can have much share in appreciating them; and in every case discharge to be due when the allotted tale is made up, and never before.

6. I contend that a man, whatever his character, could not possibly pass through such a course as this without being morally improved by it. All the manly virtues would here be called into exercise, and none of his evil passions necessarily brought into activity. In cases of violence indispensable restraint must be used as in free society; but in the absence of foolish punctilio and contemptuous demeanour towards him, and with what is required of him accompanied by earnest, affectionate, religious exhortation, there would be no excitement to violence; and for everything else

finer would not only be sufficient, but in these circumstances infinitely more powerful. Industry, prudence, self-command, exertion for the sake of others as well as themselves, in cases where families outside are languishing for their bread-winner or other cherished member, would all be called into daily and even hourly exercise; and habits of acting under the influence of these, instead of casual and unthinking impulse, would be here formed and confirmed. I would, myself, go even far in calling them forth, and relying on them. I would sell luxuries for marks, even up to wines and spirits, in prisons thus constituted. I would do all that I could to prevent abuse through this. Beyond the line of strict necessities I would sell dear, and earnestly exhort to temperance and forbearance. I would even denounce excess as unmanly; and in the case of wines and spirits would further fine this most heavily, doing all that I could besides to induce temperance pledges to be taken. But I attach little value to compulsory abstinence from anything. I am convinced that in every case it weakens instead of strengthening.

The most successful prison in Europe—that of Valencia in Spain, which in thirteen years has had an almost inappreciable number of recommitments, whilst ours, under our present system, average from 33 to 35 per cent., and in the case of boys at Liverpool, has risen to 70 per cent.—is managed on principles closely analogous to those here laid down, and I should wish exceedingly, in consequence, to lay some details regarding it also before your readers. They would be much struck by them, but with your permission I shall reserve them for a future communication.

A. MACONOCHE.

Sept. 23.

LETTER II.

To the Editor of the Daily News.

SIR,—In my last letter I mentioned that the most successful prison in Europe—that of Valencia, in Spain—was managed on principles closely analogous to those advocated in the Mark System; and I now proceed to place some details regarding this before your readers. Two recent English travellers, Mr. Hoskins (also author of “Travels in Nubia”), in his work, “Spain as it is”—and the anonymous author of “Notes of an Attaché in Spain in 1850,” concur in bearing this testimony regarding it; besides which, its able and intelligent governor, Colonel Don Manuel Montesinos, has recently sent me some official documents regarding it, from which I also propose to quote. In prison discipline there is an infinite amount to be learned from it; and, if it be thought astonishing that Spain, so much behind us in every other department, should beyond all measure surpass us in success in this, the reason may, perhaps, be found in our different positions, and the several courses these have suggested to us. Our government, strong and wealthy, has adopted force as its principle in dealing with its criminals—built magnificent prisons for them, organized costly systems of separation and other nullities, and been defeated; crime having not relatively diminished under its rule, and the recommittals to its best prisons averaging, as already stated, from 30 to 35 per cent., and in two remarkable cases of men from Perth and boys in Liverpool rising to 60 and even 70 per cent. While Spain, weak and poor, has, perhaps accidentally, confided its criminals at Valencia to a man of true practical genius and humanity, and given him only an old convent to keep them in,—which he has almost rebuilt with prisoner labour alone—introduced into it above forty different trades, from among which he allows each prisoner on entering to choose his occupation, as taste or supposed

interest, or capacity can guide him—reformed and discharged in nine years from 1840 to 1849, (to which last period alone I have his returns) 8,596 prisoners, of whom, in the same period, only 16, who had served their complete time with him (*Reincidentes que estinguieron sus condenas en este establecimiento*) appear to have been recommitted to him. Let us compare this result with the late exposures in Birmingham prison, in which, in two years, there were as many attempts at suicide, many of them successful, as in nine years there were here recommittals. The contrast is too painful to dwell on ; but it cannot fail to strike even the most superficial reasoner, and inspire him with a wish to trace such opposite effects up to their respective causes.

There seems no doubt whatever that the difference arises from the great use of force in the one case and of persuasion in the other ; as also the little importance attached in our English prisons to the interesting criminals in their labour, and the great value so much more wisely set on this object by Colonel Montesinos. In one of his reports I find the following words, in which, as it appears to me, a whole manual of reformatory prison discipline is embodied :—

“ Never forgetting that the double object of punishment is to reform those subjected to it, and to give a salutary warning to others, I have sought by every means, and at any cost, to extirpate in my prisoners the lamentable germ of idleness, and to inspire them instead with a love of labour, seeking to impress this beneficial sentiment ever more and more in their hearts. But as unproductive work in the prison could by no means effect this, I made it a rule, whenever any one showed a disposition to labour, but had no occupation which could contribute after his discharge to maintain him honestly, to endeavour to procure him such ; and for this purpose I sought to bring within the prison as many different workshops as possible, allowing him to choose among them which was likely to be most advantageous to him ; and now there are above forty of these, all in full operation, and all originally organized, and still maintained, by the knowledge and capacity of the prisoners themselves. Neither for their introduction, nor for the re-building or repair of the prison, have I ever

asked the government for a single farthing (*un solo maravedí*). nor called in the assistance of any mechanics from without. It is true that the progress of many of these workshops has been thus very slow and troublesome; for not having had funds at my disposal for the first purchase even of the necessary tools and machines for them, I have been compelled to proceed only step by step in them. But, on the one hand, I could not help the want of money; and, on the other, I have always thought a frequent and intimate correspondence between the prisoners and persons of a different description outside objectionable; and I have thus had no choice.

"The establishment of one workshop, and the difficulties experienced in managing it, showed me both how to introduce more, and to enlarge those already in operation; and I thus further gradually acquired the intimate conviction that without the stimulus of some personal advantage accruing to themselves from their labour, it is difficult to obtain work even from the already skilled, and almost impossible to get the unskilled to learn. Repeated experiments convinced me of the practical lesson involved in this maxim of social economy, and that what neither severity of punishments nor constancy in inflicting them could exact, the slightest personal interest will readily obtain. In different ways, therefore, during my command, I have applied this powerful stimulant; and the excellent results it has always yielded, and the powerful germs of reform which are constantly developed under its influence (*desarrollan se á su impulso*), have at length fully convinced me, that the most inefficacious of all methods in a prison—the most pernicious and fatal to every chance of reform, are punishments carried the length of harshness. The maxim should be constant, and of universal application in such places, not to degrade further those who come to them already degraded by their crimes. Self-respect is one of the most powerful sentiments of the human mind, for this reason, that it is the most personal (*el mas egoista*); and he who will not condescend in some degree, according to circumstances, to flatter it, will never attain his object by any series of chastisements (*ningun linage de castigos*), the effect of ill treatment being to irritate rather than correct, and thus turn from reform instead of attracting to it.

"Moreover, the love of labour cannot be communicated by violent means (*vejámenes*), but rather by persuasion and encouragement; and, although it is quite possible to obtain a specific amount of work from prisoners by the aid of the stick (as is sometimes recommended by high functionaries in this department) yet the consequence is necessarily aversion for

an employment which involves so many penalties, and of which such a bitter recollection must always be preserved. And the moral object of penal establishments is thus also, in fact, defeated, which should be not so much to inflict pain as to correct, to receive men idle and ill-intentioned, and return them to society, if possible, honest and industrious citizens.

“It was not till after making many experiments of severity that I came firmly to this conclusion; but ultimately I made it the base of all my operations on the minds of my prisoners; and the extraordinary small number of re-committals to my prison, and the excellent health and perfect state of submission in which those confined in it have always been kept, seem to me to leave no doubt of its soundness.”

On the topics thus referred to, then, nothing can be better thought or said than in these statements; but it may be well previous to further comment on them, to show how far they are confirmed by Mr. Hoskins and the *attaché* in Spain.

“The Presidio, or Penitentiary,” says the latter, “gave us more satisfaction than any other institution we visited. Here we beheld nearly 1000 prisoners, under the most admirable system of discipline, and severally engaged in every branch of human industry. I could scarcely realize that I was in a prison, so like an immense and enterprising factory was the general aspect of the interior, and so happy and contented seemed the busied operatives in their various employments. They are each allotted a fixed amount of labour to perform, beyond which the profit of the workmanship is their own. This is indisputably an excellent arrangement, and tends in a great measure to improve the morals and ensure the future good conduct of the unfortunate captives. Want of regular occupation is in every country the most prolific source of crime, while encouraged industry, on the contrary, exercises a potent influence in subduing the growth of those social vices which spring from minds corrupted and faculties unemployed.”—*Notes of an Attaché in Spain in 1850*, p. 349.

Mr. Hoskins' account is more precise:—

“If the vices and passions of a southern people prevail in a place where, until the last few years, a strong government has not been enjoyed, it is greatly to the credit of the city of Valencia, that it can boast of one of the best conducted

prisons in Europe. This being one of the great social questions of the day, I made particular inquiries about it. There are a thousand prisoners, and in the whole establishment I did not see above three or four guardians to keep them in order. They say there are only a dozen old soldiers, and not a bar or bolt that might not easily be broken—apparently not more fastenings than in any private house.

“The Governor, a colonel in the army, has established military discipline, and the prisoners are divided into companies. The officers stand as stiff when you pass as soldiers presenting arms. The serjeants and inferior officers are all convicts, who, of course, are acquainted with the temper and disposition of their companions, and best able to manage them; and the prospect of advancement to higher grades is an inducement to all to behave well. When a convict enters, he is asked what trade or employment he will work at or learn, and above forty are open to him, so that he has the means of devoting his time to any he knows, or, if ignorant of all, to one he feels an inclination for, or which he is aware will be useful to him when he is liberated. Many a man may wish to return to his native village with what he has earned here, and he knows best what trade or employment will there not only be of advantage, but even a fortune to him. If he declines to work at any, he is sent to the public works, or employed in carrying wood; but the out-door convicts are by far the worst conducted in the establishment, and are therefore kept distinct from the others, who, by their selecting a trade, have shown a disposition to be industrious and improve themselves.

“When first the convict enters the establishment, he wears chains, but on his application to the commander they are taken off, unless he has not conducted himself well. Among some hundreds, I only saw three or four with irons on their legs. There seemed to be the most perfect discipline. They work in rows, rose in rank as we passed, and seemed obedient to a word. They are not allowed to talk to each other during their work, but this rule does not seem to be very strictly enforced, and they may speak to their instructor, who is often one of themselves, and ask each other for tools or anything requisite for their work, and every night after prayers they are allowed to converse with each other for an hour. There are weavers and spinners of every description, manufacturing all qualities, from the coarsest linen cloths to the most beautiful damasks, rich silks and velvets—one a crimson, apparently equal to the Utrecht velvet. There were blacksmiths, shoemakers, basketmakers, ropemakers, joiners, cabinetmakers

making handsome mahogany drawers; and they had also a printing-machine hard at work.

"The labour of every description for the repair, rebuilding, and cleaning the establishment, is supplied by the convicts. They were all most respectful in their demeanour, and certainly I never saw such a good-looking set of prisoners; useful occupation (and other considerate treatment) having apparently improved their countenances. The greatest cleanliness prevailed in every part of the establishment; the dormitories were well ventilated, the beds neatly packed up, and water, the great requisite in a sultry climate, within reach of all. On the walls, in large letters, were inscriptions in rhyme, directed to inculcate good maxims. There was a neat chapel for their devotions, and a garden for exercise, planted with orange-trees. There was also a poultry-yard for their amusement, with pheasants and various other kinds of birds; washing-houses, where they wash their clothes; and a shop, where they can purchase, if they wish, tobacco and other little comforts, out of one-fourth of the profits of their labour, which is given to them. Another fourth they are entitled to when they leave; the other half goes to the establishment, and often this is sufficient for all expenses, without any assistance from the government.

"The Governor found it was impossible to induce the prisoners to work heartily without giving them an interest in their gains; but when once he had, by this encouragement, established industrious habits, it was more easy to correct their principles. Honour among thieves is really found here, the prisoners keeping the accounts, and no attempts made to deceive. It is, doubtless, the same feeling of honour which prevents their rebelling and leaving the asylum whenever they feel disposed. It is surprising that the establishment requires so little assistance from the government, as the expense of the officers and instructors is very considerable, and the Governor has invariably made the teaching and moral improvement of the convicts his chief consideration, without any regard to the profits to be derived from them.

"All were cleanly dressed in woollen clothes of the same colour, which is requisite in case of any attempt to escape. In summer they have lighter clothes. Their food is excellent, and consists of large brown loaves, about the colour of our best London brown bread, but finer in quality, and quite as good; rations of *olla*, rice, potatoes, and meat on *fête* days, which in Spain are numerous. Instruction is open to all in a large school, which the boys under 20 are obliged to attend for one hour daily, and any prisoner above that age who wishes

may join the classes. I saw numerous instances of excellent writing by lads and adults who could not write a line when they entered; and many have qualified themselves for clerks' places, which they have obtained on leaving the prison. There is a good hospital, with a dispensary, all as clean and comfortable as could be desired, but the average number in the hospitals never, they say, exceeds two per cent. This system may be thought too indulgent, but what is the result? During the last three years not one prisoner has been returned to it; in the ten previous years, the average was not more than one per cent., though before that period the number of re-committals was 30 to 35 per cent.

"From January 1837 to 1846, the first nine years of the establishment, when the shops were not all open, and the institution in many respects was incomplete, 3,127 convicts confined were liberated, and of these 2,355 had learnt some trade or received instruction, so that only 792 were without instruction, from their age or disinclination to receive any.

"It may be said, that the stabblings, which are frequent in Valencia, would not be so common if severer punishments were inflicted; but they say that the use of the knife was much more frequent before this system was established. The great principle here is to afford an inducement to the criminals to work, to teach industrious habits, to inculcate honourable and virtuous principles, and to send them into the world better men, educated, and able to work at some trade, and with money in their pockets to start with, instead of being obliged to have recourse to their old habits for subsistence.

"..... The success attending the reformation of the prisoners in this establishment is really a miracle, and England ought to make an attempt to do the same.'—*Spain as it is*, pp. 104–10.

A very few further comments will now suffice. There is much in the details of this prison that appears to me objectionable. I do not like the military discipline; but its effect is neutralized by the employment of the prisoners themselves as sub-officers. Where the object is improvement, this is excellent; each individual prisoner, in this case, feeling elevated by the elevation of his companion, and the self respect of the body being so cultivated; but where, on the contrary, the object is coercion, nothing can be worse, the sub-officers uniformly abusing their petty power, and the individual prisoner is doubly crushed

under the tyranny of merely another but favoured slave. So also sleeping in dormitories, many together, is bad ; and allowing money to circulate in the prison must be fraught with inconveniences, and, one would think, irregularities, of a very pernicious character, from which the use of marks in the same way would be exempt. But here is the great moral to be drawn from this, and which every one interested in the subject should lay especially to heart. Colonel Montesinos has triumphed over all these disadvantages—a bad prison, defective funds, and, to say the least, irregular apparatus, solely through his unfeigned desire to reform his men. This has been the great object of his pursuit, and every difficulty has been overcome under its guidance. We have but to propose to ourselves the same object with our better means and machinery, and whatever better lights reflection may suggest to us, and we shall be at least as successful.

In one more letter I should wish to quote another example of similar success, though under even greater disadvantages, and on a much smaller scale. It will be taken from my own report to the magistrates of Birmingham in 1850 ; and I shall then conclude with a very few further remarks on the whole subject.

A. MACONOCHIE.

LETTER III.

To the Editor of the Daily News.

“SIR,—I begin this letter with the following quotation from my report to the Birmingham magistrates in October, 1850, of the workings of the Mark System, or rather an approach to it, which was then sanctioned among the boys in their prison :—

“The management of the male adults and females is nearly the same as in other prisons. But that of the boys somewhat

differs from this; and being peculiar in several respects, it seems expedient to speak of it in some detail. Its leading features are the introduction of tasks, instead of time, in allotting the stages of punishment—the further charging those subjected to it specifically in labour for their maintenance, besides all they do towards the performance of their tasks,—and the introduction of a form of wages to facilitate the computations thus required. The first stage with the boys is thus not measured, as on the adult side, by time (14 days), but they are required to earn 100 marks in it, over and above all deducted for their food, and any fines that may be imposed on them for misconduct during the interval. Their employments are various, as netting, knitting, plaiting sinnett for mats, mat-making, webbing, cleaning, and so forth, for which the wages (in marks) are fixed by a table. Within certain narrow limits they are allowed to choose their own scale of diet, but they can only expend half the number of marks that they earn daily in this way; and as indulgence even within this limit must be paid for, and thus contributes to prolong their detention in this most irksome stage of their progress, a strong stimulus is constantly applied to them to exert themselves to earn marks, to restrain their appetites to economise them, and to behave well not otherwise to forfeit them. And the same process being continued through successive stages, in each of which 100 marks must equally be earned in order to acquire progressive advantages, the same virtues are being constantly exercised, and become gradually habitual. The result in detail is necessarily various, according to temper and abilities. Yet that, on the whole, it has been remarkably beneficial, will, I think, appear certain from the following facts.

“During the six months in which the system has been in operation, the mode of dieting according to exertion, and not according to sentence, so far from having been expensive, has caused a small economy, the value of what the boys have actually had (87*l.* 11*s.* 1*d.*) being 1*l.* 12*s.* 5*d.* less than what they were entitled to by their sentences (89*l.* 3*s.* 6*d.*)—The stimulus to exertion thus afforded has at the same time proved so efficacious, that among the prison earnings for the year the sum of 65*l.* 12*s.* 5*d.* has been credited to the juvenile department within these six months, beyond the cost of the materials used, and irrespective of that of the necessary tools. Further, of the 48 boys discharged in the two first quarters, before the plan was introduced, nine were recommitted before their expiration, and seven more were returned before the end of the immediately ensuing one, making in all one in every three discharged; while in the two last quarters, during which this

system has been in operation, of 94 boys discharged only eight have as yet returned (of whom one for trial may yet be found not guilty*), being only one in 12-13, a difference for which it seems impossible to account but upon the principle of superior management. And lastly, as the tendency of a good system of prison discipline should be to check first, as well as renewed, committals, in this particular also there are striking facts to adduce. In the two months between the opening of the gaol, 19th October and 1st January last, 36 boys were committed—in the second quarter, 58—in the third, 52—and in the fourth, only 28. While the number of boys tried at the Recorder's four first sessions within the year, was 14, 9, 10, and 14 respectively; at the last sessions it was only one; and though four are now committed for the present sessions, even this is a great reduction from the previous numbers.

"I attribute this success, then, partly to the extreme importance that I attach to the object of improving the boys through their punishment, and partly to the means that I employ to attain this. They hear so much of reform while in the prison, that gradually it becomes an object with themselves. They begin to think it both possible and desirable, better than perseverance in evil. Their habits of idleness being meanwhile interrupted, under the influence of strong selfish motives others of voluntary exertion are substituted for them; and the first disagreeableness of these being overcome, they begin at length even to like them. Their capabilities are thus also cultivated. I do not teach any of them trades. I have not the means to do so; but I put all of them in succession to every different employment that I can think of. I thus make them generally handy; and while enlarging their minds, this gives them at the same time confidence in their own powers of turning to anything. Their young ambition is thus awakened. They begin to look upward instead of downward, their emulation being excited to rise, rather than again fall. Their influence on each other becomes thus beneficial, instead of injurious; and it operates in a degree on those not as yet committed as well as on themselves. I have had some very pleasing individual proofs of this. I generally take the address of those who leave me, and inquire about them afterwards; and the father and step-mother of one boy, besides speaking in the highest terms of his own improvement, have named to my warder three others, his companions, whom he has induced to leave the streets, and take to steady labour. Another friend of his makes this number five; nor is his a

* The bill against him was thrown out by the grand jury.

solitary, though an extreme, instance of similar conduct. I have two brothers placed with one master, and both now giving entire satisfaction—one of whom had been previously once, and the other twice, recommitted. I could cite others to the like effect, and all specifically pledged to give good advice, as well as themselves exhibit good conduct. While, lastly, the course pursued with the whole, though thus beneficial to themselves, could not be portrayed by them to others in a captivating light, even if they wished to do so. To live on coarse brown bread and water, unless they work for better, is a prospect which an idle profligate boy can never be persuaded to think an advantageous one. It may result in his good; but while yet unreclaimed, he will not appreciate this. He will not desire to be put to any such school.

“It may be said, however, that that many of the effects above specified have been produced by a favourable state of trade and season; and it cannot be doubted that by this other causes have been much aided. Yet there has been no similar diminution in the committals and recommittals of either adult males or females; but, on the contrary, in the latter especially, a steady progressive increase. Thus, of men, the number of committals in the four successive quarters in the year has been 149, 147, 142, and 148 respectively, and of re-committals, 4, 6, 9, and 13 respectively. Of women, the number of committals has been 53, 55, 41, and 59 respectively, and of re-committals in the first quarter 0, in the second 5, in the third 4, and in the last 11. And while 33 men and 11 women have come in since the end of the quarter, only 2 boys have been similarly sent—one, a helpless lad of 16, wanting a hand, brought in for trial; the other, a child of 9 years of age, brought up by his own parents for inveterate habits of idleness and vagrancy. The cure is sharp for so young an offender.”

These statements were confirmed at the time by the visiting justices, who reported to the magistrates “that the working of the system among the juveniles was satisfactory.” They could not say less; they could not say other; and they concurred in the unanimous vote that the report embodying them should be printed and circulated at their expense. Yet two months afterwards they abolished the system without any inquiry or reason assigned. Before the late commission they admitted that their decision was owing to a private report from the

Deputy-Governor, in which he expressed an unfavourable opinion of it ; and this was no doubt true. The system was what Mr. Bentham praises as " a cheap system," of great effect, but with little suffering. The children were cheerful and animated under its infliction, engrossed with their tasks, and pleased with their performance of them, and with the instruction received while learning them ; and the admirer and introducer of straps and collars could not, of course, regard or speak of this with approbation.

In the late inquiry, however, the justices alleged also that it was abrogated because it was incompatible with the Separate System, which they were resolved to maintain. But the least reflection will show that this is a mistake ; for a man can be as easily interested in his work, and have that interest as easily excited by a desire to increase his immediate comforts and hasten his liberation, in a separate cell as anywhere else. I admit, at the same time, that I do not approve of separation as a form of prolonged imprisonment, and have always opposed its being very strictly enforced. It excessively multiplies conventional offences, and the temptations to commit them, and thus almost of necessity introduces undue rigour of punishment in order to check them. It is also, as I think, much opposed to manly, moral improvement. I can find no example in history of ascetic discipline producing this ; and, on the contrary, by fostering unproductive musing and reflection, and occupying the attention solely with self, it has a directly opposite tendency. An amusing exemplification of this occurred within my own knowledge some years ago at Sydney, where, a large separate prison having been constructed, was at first liberally used to convict-prisoners, usually men of very active habits. But their wives and families speedily remonstrated, and said that their husbands and fathers, who had been previously kind in their domestic relations, on returning from this prison were so cross and irritable on the slightest occasion of noise or disturbance, that their whole comfort in them was gone ; and I know a

similar instance at this moment in Birmingham, where a good husband and father previous to a long incarceration, has been almost brutal in his demeanour to his family since his release. And so it is, I believe, in a degree, with all subjected to a long course of this punishment. I do not think that its tendency is so much to make mad as to make surly, selfish, and thus in small matters wicked. Man is born social, his relations are social, his duties social, and he may be best improved in well-regulated social habits. We might as well, I think, seek to train our admirals by keeping them constantly on shore, as our criminals by keeping them for a length of time shut up between four walls. Like handcuffs and strait-waistcoats, separation has a good special application, and, as medicine, is excellent for certain phases of moral disease; but it is no more fit for habitual diet than would be senna or ipecacuanha.

It is alleged, however, that it facilitates the return of prisoners to employment outside by lessening the chances of their recognition there; and in aid of this property in it, masks have been introduced in many prisons further to conceal the person. But it is a pure delusion to believe this ever to be successful. Prisoners always know and recognize each other; and, besides, is it really desirable or wise thus to try to qualify men to go forth into the world with a lie in their mouths? Would it not be much better to make prisons so improving, and the principle on which men are discharged from them necessarily bear such testimony to their amended character, that the prejudice against receiving them when discharged should gradually fade away, and cease to be an obstacle to their ultimate advancement? This is already effected in the penal colonies, where trained and discharged prisoners are preferred as servants to ignorant free emigrants; and in the neighbourhood of Mettray, the juvenile reformatory prison in France, the same result in a degree is manifest. And surely this is a higher and much worthier object of pursuit by clergymen and philanthropists than that of assisting men to pass a deception on the world in

all their subsequent career, and place themselves in the highly dangerous and corrupting position of having such a secret to keep.

I conclude, then, as I began. It is the duty, and even still more the interest of society, in dealing with its criminals, to try earnestly while they are in custody, to reform them—to develop especially manly virtues in them—to qualify them thus to contend successfully, after discharge, with the difficulties besetting their social condition, and by this very act direct their thoughts upward—instead of allowing them to blindly struggle forward, as too many now do, without thought, or care, or hope, or consequently, desire to rise in life, believing that they are born to steal or starve, and preferring the former alternative. What effect can exemplary punishment have on such minds? Well-established facts prove that it has none; for to such, a prison, as at present conducted, and even if made severe, is rather an attraction, a temporary refuge, an alternation, almost agreeable, with their difficulties outside. And how must the general moral tone of the lower classes in the country be sunk through contact with individuals entertaining such thoughts! while on the contrary, how much would this tone rise were the periodical liberations from the gaols to import a healthy current instead—men with their powers developed, their characters strengthened, their purposes improved, their aspirations all directed upward! “It is impossible,” say some; “it is a mere Utopia.” But have we ever tried?—have we ever used the suitable means to bring about such a consummation? We have not: we have bounded our ambition by the object of making good, obedient, in many cases professing, but in few performing, prisoners. We have lowered their individual characters in order to make them submissive; and having thus in every way in our power sown tares, we have certainly not reaped wheat; but are we thence to infer that wheat by a different husbandry may not be raised?

To compass the whole end proposed, I think the Mark

System is alone competent. It closely resembles the arrangements of ordinary life, and should, therefore, best prepare for return to it. Its machinery also, once set in motion, nearly works itself, and is very little susceptible of abuse: its provision of labour, wages, purchases, and fines, all explaining themselves, and nothing being wanted in it but the punctuality of account which is maintained in every factory in the kingdom, and without which it could not be kept open. What are the objections to it then? I have never heard any, except that it is contrary to law, and may be considered as calculated to infringe on the sentences of the Judges by subjecting these to modification by inferior officers. But might it not be made according to law? and were the Judges, under a change of law, to sentence a criminal to render a specific amount of the representative of exertion and good conduct as the punishment of his offence, in what would this sentence be modified by his being compelled to maintain and behave himself during the requisite period?* The discretion reposed in the inferior officer might be restricted by the sentence fixing also a maximum and minimum of time to be thus occupied, as, not less than three or more than six days, weeks, or months, as the case may be; but this would not, I think, be advantageous—and in particular I would deprecate a maximum. A criminal, once a convicted prisoner, should never under this system get away till he has earned his marks. I would listen to no application on this head. But this is a mere detail; and in regard to all such points I am comparatively indifferent. It is to the fundamental principles that I really attach value, and to them the highest. With all deference, but yet great confidence, I

* The principle would be, that a man incurring punishment should, as when he falls into a pit, or well, or any other misfortune in life, be required to *struggle* out of it, and not be allowed, as at present, simply to *endure* out of it. In the one case, his more active and better qualities would be called into eager exercise, and thereby necessarily improved; in the other, they are all set to sleep, and at least rust, if others most pernicious do not supply their place.

express my conviction that Secondary Punishment cannot be improved without letting them in ; and attempts to amend it will, in practice, only be successful in so far as they approach them.

I am extremely obliged to you for admitting these views at such length in your columns. I have been fearful of abridging them lest I should leave out something important, and I have been anxious to send them to you while the interest was yet strong upon the subject. May I then hope that the substance may plead indulgence for defects in the form ?

Your obliged servant,

A. MACONOCHIE.

P.S.—In the last of the preceding Letters I have said, that to attain the whole end proposed, I think the Mark System alone competent ; yet it may be right to add, that the essential principle of that might be introduced without the whole apparatus,—that principle being the conferring small rewards for good conduct, as well as imposing extra penalties for bad,—operating thus by hope as well as fear,—drawing up as well as crushing down ; and the whole so organized that the proposed rewards shall be certain, affording thus motives for steady, consistent exertion, and not merely occasional or fitful effort. And so small a matter constitutes in a prison an advantage that these rewards may be almost anything, an external decoration, a little longer gas in the cell, a little more instruction, a wider command of books, increased facility of seeing and corresponding with friends, and the like. Much might be done in this way, without changing the law, though much more with such change.

In the same letter I have also objected to separation as a form of prolonged imprisonment, and this has been of late years such a hobby with the highest penal autho-

rities, that it may be perhaps inferred by some, that I must necessarily be wrong as opposed to them ; but to such I would point out the difference of our objects. All previous systems of prison discipline have aimed only at coercion and restraint, and for these purposes nothing can be better than separation. *Divide et impera.* But it is the object of the Mark System to develope, and for this purpose combination is just as essential.

It is often argued, however, that the combination of prisoners with free might be advantageous, but not of prisoners with prisoners, the assumed weak or wicked with others of the same class ; but this also is a gratuitous, and even demonstrably erroneous assumption. It is much easier to influence numbers together, than the individuals separately of whom they are composed ; and when moved they will thus go much further ; they assist each other, and beget a common enthusiasm. There is also a specific tendency in numbers towards right feeling. The claptraps of a theatre are all high moral sentiments. The better feelings of a mob are rarely appealed to in vain. In the army and navy, at a word the most heroic self-abnegation, even unto death, is familiarly called out ; and in none of these instances could the same responses be obtained probably from even one individual, that he renders spontaneously when one of a body. On Norfolk Island again, I could have done nothing with each prisoner separately ; the best of them would have remained only dogged under my representations. In Birmingham I should neither have gained the boys in the way that I did, nor would they have been able to influence each other outside as described, had they been shut up in separate cells. And Colonel Montesinos' experience in Valencia is all of the same nature.

The unnatural character of prolonged separation should alone settle the question. Human nature is not to be *improved* by being broken across.

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Chaldon, October, 1856.

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spirit at once of our religion, of our moral science, and of our civilization when they shall be admitted (and the time is probably not distant) to which a satisfactory system of secondary punishment, Christian as well as, the service will not be deemed a small one of having *originated*, and of discouragements steadily maintained them.

And comprehensively acted on, crime will be *consistently* stayed; and penal arrangements even directly encourages it. It will be stayed by a principled nation may be proud,—the systematic pursuit of the reform of acting on effects (*usually much over-rated*) contingent on their possible. It will be stayed by bringing the theory and practice of punishment into the sphere of the moral science and practice of our day, recognizing the value depending less on minute regulation, coercive agency, and material apparatus. By seeking and respecting the attributes of our common nature, implanted in seeking to direct and guide them to good in their strength, and not to keep them under the pretext of controlling their irregular impulses. It will be in this department as in all others, the maxims of a ruder age, when fear the support of government; and by copying in its stead that higher Wisdom, fear in the human breast, gives it its just place as an agent in maintaining it other sentiments, selfish, and generous, and employs them *all* in society in this world conduce to the improvement of character in it, and next. It will be stayed, in a word, *and stayed only*, by our revising the law as well as modifying its administration,—by our believing that we may not win it, as well as undeniably unsuccessful in our past devices in it,—and by *leading* to this conclusion, that what is wrong and selfish in moral theory in its practical application. We have hitherto failed in punishment, *because* we punish criminals in it; and we shall only succeed, or deserve to succeed, when we make it our *first object* to save them, deterring only in strict

some difficulties in the way of effecting so great a change, may readily be overcome if movement is ever accomplished without encountering them. But there are obstacles to try; and having myself already once tried, I *know* that if heartily applied, and success will surpass all ordinary calculation. It is thus always consistently applied, and not fettered by contradictory views; while, on the other hand, compromises are always difficult to organize and maintain, and, it is *successful*. This is the true secret of past difficulties and disappointments in the balance between the interests of criminals and of society, believing them to be conflicting; and one or other principle, that of humanity or severity, is thus to have the ascendancy in our arrangements. Our real difficulties would all be removed if these interests identical; and we may neither rightly regulate the law, till we recognize this elementary truth, and reason under

THE MARK SYSTEM OF PRISON DISCIPLINE.

Generalized and condensed, the Mark System gives a totally new and highly improved aspect both to the theory and practice of punishment. An Act requiring Judges and Magistrates to combine with their Time sentences corresponding Task ones, in marks to be earned subsequently by good conduct in prison, would, when understood, give universal satisfaction. It would appear to aggravate the punishment inflicted on criminals, and in one sense it really would do so—it would inflict on them a double sentence of time and of conduct; but it would remove them from the existing depressing and demoralizing position of merely seeking in prisons to avoid offence, in fear of further petty infliction, to the elevating and improving one of aspiring constantly to earn tangible rewards (marks), bearing on the recovery of their freedom, and of thus advancing sensibly to this from day to day by their own efforts. And the refusing them all gratuitous supplies, but making their marks convertible, at their own will, within the prison, to any species of permitted indulgence, restricted only by the paramount object of economy in order to hasten the necessary accumulation to gain their discharge, would open a field of self-guidance, self-denial, and virtuous restraint, which would be in the highest degree improving. It would make the gradual reform of criminals, especially young ones, almost certain, without remitting at the same time any portion of the retribution due to their offences.

Form of Record recommended to be kept daily of prisoners' conduct while in gaol:—

Prisoner's Name or Number.	Entire Sentence in Marks.	Present Accumulation.	EARNINGS.						EXPENDITURE.							
			Personal Demeanour.	Kinds of Labour.	Diligence in.	Efficiency in.	Chaplain's Report.	Schoolmaster's Report.	Total Earnings.	Food.	Kinds of Indulgences.	Charge for.	Kinds of Offences.	Fines for.	Total Expenditure.	Balance.

These columns to be filled up, as the facts may strictly be, from a scale of 5; 3 thus indicating a little better than middling, 1, 2, 4, 5, opposite extremes, 0, no approval in that column whatever. The Chaplain's and School-

master's Reports recommended to be in a fractional form, the upper figure indicating what is already possessed, the lower the degree of zeal evinced in acquiring more. Both to be included in the computation. The earnings in most would be low, and in all rarely exceed 20 to 25, which, accordingly, would make a good daily task imposed in a sentence. The expenditure, on the other hand, would be about as follows:—1 or 2 for the use of the gaol clothing; from 1 to 3 for gaol bedding; from 1 to 5 for schooling, loan of books, letters, visits, etc.; for food, from 1 (bread and water) upwards, at will, at the rate of a penny per mark. It would require much economy and self-command to save any considerable contribution daily from this towards the re-purchase of liberty; but the character would improve hourly under the effort, and the consideration and self-denial constantly imposed would be felt by most prisoners a grievous aggravation of their time sentence.

When the discipline is maintained by rewards (marks) given or withheld, there will be very few offences to record; but if they do occur they must be met by fines (forfeitures). No special talent would be required for administering the System, only firmness, conscientiousness, punctuality, and a competent knowledge of figures. The high moral spirit that would be thus developed, both in officers and men, must be seen to be believed.

The working principles of the system in detail are these:—1. The combination of Task with Time sentences. 2. The defining these tasks by marks required to be earned by subsequent good conduct in prison. 3. Being enabled by these means to reward specifically every species of good conduct, including diligence and proficiency under religious and secular instruction, as well as labour in meriting them. 4. Refusing all gratuitous supplies to prisoners, but enabling them to exchange at will their marks when earned for whatever they may require. 5. Giving them a large discretion in this, but impressing on them at the same time the importance of observing strict economy, to enable them to repurchase their freedom. 6. Making these marks, in like manner, the chief, almost exclusive, agents in maintaining discipline among them, giving, withholding, or forfeiting them, as the case may be; never thus employing physical inflictions, but ruling in gaol as out of it, in all minor cases by fine and imprisonment.

These principles are so directly opposed to much that now constitutes what is called Prison Discipline, that they have been very slowly admitted even in theory, and no-where as yet entirely in practice. Yet what are, and have been, the acknowledged results of the present system of discipline; and what are the promises of this as a new one? Has the present one materially repressed or reformed from crime? On the contrary, does not much in it directly tend to promote it? Why should the commission of offence entitle a criminal to gratuitous maintenance? Should not this be at least acknowledged by unqualified submission and good conduct while receiving it? Would not such an obligation materially aggravate the Time sentence otherwise annexed to the truculent, and is not its absence a direct temptation to the indigent, indolent, and supine? Again, when a criminal

has forfeited his liberty through offence, would it not be a just and suitable retribution to compel him to repurchase it by a corresponding period of proved good conduct afterwards? Would not this also be felt as a considerable aggravation of the accompanying Time sentence? and would not the feeling be even considerably enhanced by the good conduct being further required to be rendered voluntarily, a sacrifice made of his own good pleasure, a proof of his implicit submission to the discipline to which he has been subjected? It seems impossible to answer any of these questions adversely to the present argument; and if we descend to details, it is strengthened. For nothing can be more rude, and even childish, than the minor punishments with which our present system visits offences in gaol—strokes, bread and water, dark cells, expressions of mere displeasure, appeals to fear, with nothing persuasive or elevating in them whatever, but much the reverse, challenging opposition, truculence, evasion, perverseness, and, in extreme cases, even violent revolt. The spirit of the Mark System is totally opposed to them all. It seeks to stir up emulation, ambition, zeal, ever striving after better and better things to come—the feelings which in spirituals rise at length to true religion, and in ordinary life make us in truth, as a nation, what we are. Can any one hesitate between the two? or, considering the small addition proposed alone to be made to our statute law in order to reverse the existing picture, can an intelligent age like the present, already much and loudly complaining of the results of its Secondary Punishments, scruple long to change it.

A Mark System has long been known in education, and besides being common in many schools, has been recently introduced by authority into the prescribed examinations for Government appointments. (Wherever many and mingled accounts and results are to be kept and weighed, there marks, or their substitute figures, must be employed.) But there is another department besides punishment in which this specific form of them, and the spirit in which they have been here recommended, would be most beneficial. This is the management of our public charities—our work-houses, work-house schools, hospitals, asylums—wherever relief or tendance is now given gratuitously. Were the benefits promised in these only made conditional on the good conduct of the recipients, and graduated, as by marks, according to the measure of the good conduct rendered, their character would be incomparably raised, and also the character of those profiting by them. Their bands of discipline would be immeasurably strengthened; the spirit of discontent and even insolence now frequent in them would be effectually quelled; the eleemosynary character which they now exclusively possess would be much palliated; its taint would be proportionally removed, and the benefit derived from giving good conduct thus a direct and specific advantage, accommodated to all capacities, would not be confined merely to the individuals profiting by it, but be diffused throughout the community. The institutions which would be the means of communicating it would become all reformatories, and be considered such; and the principle they would establish of making public assistance conditional on a suitable effort made in all cases to deserve it, would raise proportionally the character both of the country and its people. It would be a

prodigious step in civilization. From uncertain impulse in punishment (sometimes erring in indulgence, sometimes in severity), and from mere charity (often abused), in relief, we should pass to a steady and generally successful effort in both, by an appeal to the most widely diffused and strongest principle of our nature, to improve and elevate the moral character of the objects of our care. Even such a professed aspiration would be beneficial.

Another observation also here occurs,—the Mark System, offering specific reward to the possessors of Education, its establishment, whether in punishment or relief, and still more in both, would greatly encourage this. It would cause parents to give their children instruction, these latter to attend to it, both to acquire the capacity in a degree to communicate it, and thus, in relief especially, provide an extensive field for mutual tuition and other useful occupation and employment for the aged and infirm. It should be observed at the same time that in relief, not having the great boon of liberation in this case at its disposal, the System should only be introduced with modifications. The Marks should have a lower exchangeable value given them; and a lower still should be offered in money for such as may be earned, but not expended, within the several establishments. This would incalculably stimulate both exertion and immediate self-denial, and be thus in truth even economical. I do not enter here, however, into details. These will in all cases be best left to the discretion of the administering authorities, who will be guided by the peculiar object and circumstances of each several institution. The object here is to press on attention the moral and social benefit that would be derived from making gratuitous maintenance everywhere contingent on good conduct, and in one respect qualification, both to be indicated by Marks, so that special encouragement may be bestowed wherever specially wanted. In all cases this principle, I think, would be most advantageously maintained. It will improve, instruct, and elevate our people while relieving them.

A. MACONOCHE.

Chaldon, Croydon, 8th January, 1858.

THE MARK SYSTEM OF PRISON DISCIPLINE.

THE changes in the Law and Practice of Punishment recommended by the Mark System, are these:—

1. Task sentences to be legalized, with *minima* times annexed to them, but not *maxima*. Whatever the offence committed, whether grave or slight, the amount of submission, exertion, and other good conduct deemed equivalent for it in prison (the Task sentence, in a word, imposed for it), should be exacted to the utmost, *whatever the*

SOME may object to the system herein described that it is not sufficiently severe, and hence, they will assume, not sufficiently repressive and *detering*. But in the evidence recently taken before the late Committees of Parliament no practical testimony is more uniform than that of the small *detering* value of mere severity in repressing crime; and on the other hand, nothing would probably check it more than the sight of a prison system which would uniformly subjugate *all* brought under its influence, and reclaim *most* of them. Such general defeat would be peculiarly distasteful to the criminal mind outside.

Under this system all must confess themselves subjugated, for otherwise they would never be released from it. And the reform of the majority would be secured by its judicious mixture of *steady*

a relief.

4. But to make this lesson complete, there should be no fixed rations allowed, but a discretion be confided to the prisoners themselves, how much or how little they will ask for and consume. Without this there would be no field afforded them for cultivating prudence and self-restraint, nor any school provided for the exercise of self-denial, precisely the minor virtue most required to qualify them for return to free society.

5. Like every other detailed regulation, the precise limits imposed on this discretion will necessarily rest with the Secretary of State; but in the interest of the System I earnestly recommend that the latitude allowed be considerable, and in particular that wine and spirits be among the articles thus, *but thus only*, permitted to be bought. They

should be charged very high, be at the same time earnestly dissuaded from, and would thus, I am convinced, be for the most part *voluntarily* resisted. But it is expressly to cultivate this latter habit and power that the privilege is recommended: and the training for return to society would be obviously incomplete, which authoritatively excluded from a prison this, one of its most powerful temptations.

6. When a prisoner has completed his training under this System, (in other words has completed his *minimum* time, and fulfilled his entire task), it would be very desirable that he, or she, at their own option exclusively, should have the power of remaining, up to a given time, in precisely the same circumstances as before, subject to the same rules, and in no respect differing in external appearance from what they were, but with the privilege of leaving when they please, and receiving, when discharged, a money payment (say a penny per Mark), for whatever surplus they may have within this time accumulated. Many plans have been lately suggested for the relief of discharged prisoners, but none, I am convinced, would be so effective as a small fund thus obtained, the fruit of their own voluntary diligence and self-denial, and bearing its own testimony, with probably a concurring one from the Governor and Chaplain whom they leave, that they really possess these virtues, and have exhibited them through the course of, perhaps, a long previous sentence.

7. On the other hand, should a criminal who has been once thus treated be re-convicted, his second Task sentence should be largely increased, almost whatever the quality of his second offence. Having once passed through such a training, and yet afterwards shewn weakness, his second course of instruction should on that account alone be made sensibly more severe; apart from which it is most desirable to make the punishment for re-convictions always severe, to check the trade in petty offence, now so frequently indulged in, and so hardening, and otherwise injurious.

The principles on which the above suggestions are founded, may be thus summed up. It is much more the interest of society to reclaim its criminals, and fit them to return to it, than to macerate their persons or feelings; and it would seem impossible to devise a better apparatus for this purpose than so to regulate our prisons as to stimulate and call into exercise in them the motives, impulses, and habits, which make good men and women out of them, and earnestly discourage those which lead to weakness or vice. Criminals treated in

this way would be *punished* to the full letter of their respective sentences,—they would be imprisoned, and set to hard labour;—but this labour would, in their case, be duly performed, for otherwise the Marks accruing from it would not be earned; while in existing circumstances, under mere compulsory rule, it is uniformly, and too often successfully, sought to be evaded. They would at the same time be otherwise placed in the most favourable circumstances for acquiring good habits. These would be imposed under a far more stringent motive than society at large can afford, yet of the same character, and tending to the same ends. It would thus cause the first steps to be made in many virtues and habits in which the succeeding course would be comparatively easy.

The idea of this system first occurred to me in 1837, in Van Diemen's Land. I had gone there in 1836 to fill a public situation, and before leaving London was solicited by the Prison Discipline Society, with the concurrence of the Government, to pay special attention to this subject. I had not previously in the least studied it, and had thus no bias or prepossession in regard to it; but I could not but be immediately struck by the deep demoralization in which the prisoners were then plunged, and the apathy, not to say more, exhibited by the local authorities in regard to it. It was alleged by them that doubtless it was a misfortune, but was inevitable, and proceeded partly from the original vice of the men, partly from the total want of funds and other appliances by which they could be reduced under stricter rule. I could not, however, be satisfied with this: it seemed to me fearful so to abandon thousands—men, women, and children—to increasing and ever increasing ruin, without at least making an effort to save them; and it occurred to me that one sentiment, apparently common to them all, might be employed for the purpose. This was their passionate desire to regain their freedom, or even make a definite approach towards it. For this they familiarly encountered the greatest hardships and dangers; and why, I argued, might this not be made to sustain virtue, as well as elicit courage? The first difficulty was to graduate conduct, as well as its reward, so that the latter might stimulate daily, and not merely occasionally,—and this gave me the first idea of Marks: these being gained by good conduct, and their accumulation conducting to liberty, it was obvious that they would soon be greedily coveted as wages; these again would immediately raise the men above the demoralizing condition of slavery in which they were otherwise plunged; their

forfeiture for misconduct would supply the place of lashes for minor offences; their convertibility, at the prisoner's own will, into immediate indulgences, thereby however prolonging detention, would further promote and prove steadiness and self-denial; and, in a word, the whole scheme appeared to me pregnant with infinite moral good. It was accordingly sent home, referred to Sir William Molesworth's Committee, by it approved, recommended to be tried, and shortly afterwards I was sent to Norfolk Island to endeavour to exemplify it. It seemed a strange place to select for the first trial of a Reformatory System, the prisoners there being generally considered irreclaimable; but 600 new convicts from England were at the same time sent to be the special objects of my charge; and I had great confidence in the principles which I desired to introduce into the management of both. Nor did they disappoint me. I had many peculiar difficulties to overcome. My powers were too limited. I was thus often placed in unforeseen and unnecessary embarrassment, from which I could only extricate myself by exceeding the strict limits of my authority. This was a source both of anxiety at the time, and complaint and cavil afterwards; and above all, my Marks never had a specific value attached to them, as regarded liberation: I could only hold them out as affording grounds for expectations, all, as it proved eventually, to be disappointed. Yet in an extraordinarily short space of time my methods, founded as above, began to operate sensibly on both the old and new prisoners. The semblance of freedom bestowed by them, and progressively its exercise, seemed, as it were, to lift them up bodily. It stimulated their better and more manly feelings, and these in the same proportion put down their lower and worse ones. Their public opinion was thus even modified; it ran strongly in support of my administration, though previously it had been so opposed as even to have modified their language. A "good" man had been one who would scruple at no wickedness to screen and conceal offence, and now, on the contrary, nearly all would prevent, and many readily expose it. Even the partially insane, of whom there were many, were thus in time gained. Suppressed, and consequently impotent, resentment for previous indignities rather than hardships, had a tendency to multiply them in all these colonies, and no class gave me at first more trouble, or were in the main, afterwards more generally subdued. They had no pretext with me for those outbursts of passion in which they had before habitually indulged; they were otherwise quieted by the prevalence of good spirit and advice around them; and above all, perhaps, the quiet unostentatious restraint of a well-defined and easily intelligible *self-interest*, the basis of the whole

system, otherwise moved even them. It was alike powerful with all, whether to elicit exertion or self-command.*

When recalling these facts, then, and remembering also the social state of the Penal Colonies throughout when I first visited them, I cannot refrain from earnestly pressing, both on Government and the Legislature, the more than expediency, even the duty, in the event of a future recurrence to Transportation, not to send the deported to any free colony whatever, but to filter them rather through an establishment such as I sought to make Norfolk Island, only larger and with more local resources, to be placed under the Mark System in its full integrity, and from which the prisoners, male and female, after due training, should be assisted to disperse, quite free, wherever they

* The above statement may be confirmed by the following, among many other testimonies in my possession :—

“Captain Maconochie did more for the reformation of these unhappy wretches, and amelioration of their physical circumstances, than the most sanguine practical mind could beforehand have ventured even to hope. It is greatly to be regretted that his views were not carried out to their fullest extent, in the most cordial spirit. My knowledge of the convict’s character warrants my saying expressly that they offer the only approximation that has ever yet been made to a correct penal theory,” &c.—*Settlers and Convicts, Knight’s Miscellany*, pp. 412, 413. 1847.

“I owe to Captain Maconochie, and his *doings*, the full conviction of the *invincible truthfulness* of his system of managing and improving criminals. In thinking over all our Norfolk Island experience, I do not mean to say that some errors were not committed; but I am sure that infinite good was done, that nothing like his administration there has before or since worked so much good. As Pastor of the Island, and for two years a magistrate, I can prove that at no period was there so little crime,—or anything like the tone of improved feeling which characterized the period of his residence there; and I am willing to stake all my credit upon the assertion that if he has a fair field and fair play his cause will be triumphantly established. I never meet with a prisoner who does not confirm my conviction of the improving tendencies of the efforts he made.”—*Letter from the Rev. A. B. Naylor, Chaplain to the establishment, afterwards a Magistrate.* 1837.

“The conduct of your Norfolk Island men generally, has been most exemplary:—*they have shewn that a reformation far greater than has been hitherto effected in any body of men by any system either before or after yours, has taken place in them.* With scarcely an exception the whole are doing well, and some are in a respectable way of business, advancing fast to prosperity. They are a credit to the name they commonly bear of Captain Maconochie’s men.”—*Letter from Van Diemen’s Land, 1838, substantially confirmed to me verbally in 1852, by the Right Rev. Dr. Willson, R. C. Bishop of the Colony, who personally knew many of them.*

please, along the shores of the Pacific. They might thus be sent out in any numbers, be made incomparably better men and women, at infinitely less expense, perhaps at length even yielding a revenue, and causing no solicitude about their ultimate re-absorption. Free settlers, on the contrary, are always bad Convict-overseers, and most expensive, and otherwise disappointing. Their management can never be brought under even moderate regulation. The combination of free and bond, especially in domestic relations, is always demoralizing. The absorption into a small community of prisoners whose early history must soon be known to all, is at once difficult to accomplish, and almost necessarily further injurious; and the expectations and claims founded on permitting it have, according to all experience, neither end nor reason in Colonial communities. There would be no comparison between entering again into such an embroglio, and the establishment of a new Penal Settlement, *Insular*, otherwise well chosen, from which Free Settlers, English, Foreign, or Native, should be altogether excluded, and under the Mark System. Under any other less stringently reformatory, educational, and morally, socially, and even mechanically, improving, it would prove comparatively a failure. It would be always less expensive and injurious than the old system, and the scope of ultimate discharge from it being larger, it would give less cause of solicitude about the ulterior fate and conduct of its prisoners. But without the Mark System it would be incomparably less virtuous in its own composition, and less a direct blessing to the communities, whether civilized or savage, into which it would eventually drain.

There remain yet a few words to offer on the introduction of the system into the Local Prisons at home, in which it is obvious, as it would there meet criminals of every kind in the first stages of their career, while yet unhardened in offence, its task would be less difficult, and its success more generally assured. But its influence on Juvenile criminals may be adverted to more specifically. By introducing them under the strongest imaginable impulse into the cares, duties, and restraints, of active life it could not but cultivate in even the youngest of them precocious steadiness, prudence, and good purpose. It would in this respect be the best possible school for them; and fitting them with old heads at once, render to them, as to all other prisoners, subsequent assistance and patronage nearly unnecessary. And this alone is an important feature in the whole system.

Much benevolent feeling has of late years been directed to the object of supplying it, and in existing circumstances it is scarcely possible to devise a more praiseworthy project than that of the

Reformatory Schools daily being appropriated to the purpose. Yet this is after all but a partial movement, and in some respects not without objection even on principle. It is partial, as not including adults, and only a mere fraction even of the boys; and the objection to its principle is its interference with the uniform administration of criminal justice, and multiplying in it exceptional cases. Any deterring effect it may have must be thus essentially weakened; and the superior advantage would be infinite of introducing the Mark System into our prisons, thus giving all,—men, women, and children,—*its* advantages, and then extending the scope now contemplated for the Reformatory Schools so as to make them aids to Unions instead of exclusively to Prisons. They need not thus necessarily exclude discharged prisoners, for if these are still young, and in distress, they would be equally eligible with others to be received in them; and both the stigma of ultimate discharge would be thus less, and the funds of the schools themselves would be increased by coming within the scope of the regular parochial assessments. It would be easy also, and most desirable, to introduce the Mark System into them too, by allowing Marks, according to conduct, to be granted in them, charging in these for food and other indulgences, and allowing a penny for each of surplus on discharge, thus infinitely strengthening the bands of discipline in them, and, above all, removing a reproach now often and most feelingly made to us, that the highest educational advantages held out to poverty by English benevolence are only attainable by graduation in crime.

The idea is here only roughly sketched, but it naturally flows from what has preceded it. And the whole is recommended to the consideration of the Reformatory Union, of which I have the honour to be a member.

A. MACONCHIE.

Chaldon, Croydon,
December, 1856.

NOTE.—It has been frequently imputed to me that my System is founded on previous reasonings by His Grace the Archbishop of Dublin; while a valued friend has also lately told me that it is to be found substantially in Mr. Livingston's work on Louisiana. And certainly its concurrence with such authorities is a great abstract recommendation of it; but I most positively assert that when I conceived it I had never read, nor, as I think, at the time even heard of any of the works thus re-

ferred to. My reading had lain entirely in an opposite direction; I had, properly speaking, no previous opinions on Punishment at all; and those which I now conceived were suggested literally, as above stated, by the circumstances in which I was placed. These also were so extreme, and, with an earnest desire for the object, consequently so suggestive, that I claim little merit for the first conception. My real claims are founded, first, on the having such desire so strong that it would not be repelled by specious difficulties; next, having caught the idea, on fitting it with an apparatus which speedily led me to its ulterior natural results; and, lastly, on the tenacity of purpose which has enabled me, subsequently, through twenty years of severe pecuniary loss and disappointment, to continue pressing the plan, even until now, on public and official attention. For these merits I even presume to claim some form of compensation, which may at least diminish to my family my actual pecuniary detriment; for they have enabled me, I conceive, to render no ordinary public service. Mainly through my consequent representations, the elementary principle, for which I have thus long contended, is now admitted. It is even imperfectly in action; yet with such success, that in a recent Report of a Committee of the House of Commons, it is pronounced "just and expedient," and recommended to be acted on on a larger scale. It is still without its appropriate apparatus, and wants thus the precision and many other concurring sources of improvement, which, as I recommend it, it largely possesses; but these, I think, must soon follow, and when completed, it will change the whole character of Punishment. From a rude, vindictive, even directly demoralizing, instrument of Government, it will become a Christian, enlightened, and universally improving one. From a blot and anomaly in our civilization, it will become one of its most signal triumphs. It may even at length dispense with capital executions, its mind-sustaining processes enabling perpetual imprisonment to be substituted for them even in the most extreme cases. Civil for natural death; much more in accordance with the merciful tendencies of our age, consequently to be with much more ease punctually inflicted; and were a special prison assigned for it, bearing some external mark of its awful destination, it would give a much more permanent and impressive warning than any number of passing executions, and afford each wretched culprit that time for leisurely and sincere penitence and preparation now either withheld, or wasted in vain hopes and false representations.







